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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

VIACOM INTERNATIONAL INC., ET AL.,	)	
	)	ECF Case
Plaintiffs,	)	
v.	)	Civil No. 07-CV-2103 (LLS)
YOUTUBE, INC., ET AL.,	)	
Defendants.	)	
THE FOOTBALL ASSOCIATION PREMIER LEAGUE LIMITED, ET AL., on behalf of themselves and all others similarly situated,	)	ECF Case
	)	Civil No. 07-CV-3582 (LLS)
Plaintiffs,	)	
v.	)	
YOUTUBE, INC., ET AL.,	)	
Defendants.	)	

DECLARATION OF BRENT HURLEY IN OPPOSITION TO PLAINTIFFS' MOTIONS FOR SUMMARY JUDGMENT

BRENT HURLEY, pursuant to 28 U.S.C. § 1746, hereby declares as follows:

1. I started working at YouTube in August of 2005 as the first full-time employee of the company and served as YouTube's Director of Finance & Operations during its initial years of operation. From my arrival at the company, I participated directly in creating specifications and features for the YouTube service, helping to define how the service would function and working to improve the experience of those using it. I was also extensively involved in a variety of YouTube's copyright protection efforts. The facts set forth in this declaration are true of my own

personal knowledge and if called and sworn as a witness, I could and would testify competently to them.

2. In December 2005, YouTube launched a feature known as "Subscribe to Tags" which has been active on the site since then. The feature allows any YouTube user to define "tags" consisting of words or short phrases. YouTube then automatically alerts the user whenever a new video is uploaded to the site containing that tag: (1) in its title; (2) in the written description of the video that the uploader supplied; or (3) in the tags that the uploader had associated with the video. The alerts are presented to users whenever they access their YouTube account. Thus, for example, users who subscribed to the tag "skiing," would automatically receive a list of the newly-uploaded videos that contained the word "skiing" in their titles, descriptions or tags.

3. In January 2006, YouTube extended the Subscribe to Tags functionality to enable any user to receive automated alerts about new videos matching words or phrases the user defined, even if the user was not visiting YouTube at the time. To do so, YouTube made its service accessible to anyone using the popular and free technology known as Really Simple Syndication ("RSS"). In this manner, users could have automated, customized notices sent to them as often as they liked, listing new videos on YouTube matching the tags they had predefined.

4. The ability to receive automatic updates on videos posted to YouTube with particular tags was a function that YouTube also later packaged as part of its copyright protection system specifically for content owners. This aspect of the system, however, merely duplicated the "subscribe to tags" and "RSS" functionality that had long been available to content owners and ordinary YouTube users alike.

5. The functionality of allowing users to set keywords and receive alerts when new videos matched those keywords was a convenience. Even without this feature, users and content owners could obtain the same information simply by entering terms into the YouTube search function and reviewing the results.

6. This functionality is limited in two important respects. First, while it can alert users when videos are uploaded with selected tags, it cannot tell users whether the uploaded video actually contains content related to those tags. If user uploaded a video of a cat but titled or labeled the video with the tag "dog," users subscribed to the tag "dog" would receive an alert for the cat video. In addition, the functionality could not enable users to receive alerts when unauthorized videos or professional videos were uploaded to the site because it had no ability to make such determinations. If a user subscribed to the tag "star wars," the user would receive alerts for all videos uploaded with the tag "star wars" whether the video was an authorized trailer for a "Star Wars" film, a video of a child trick-or-treating in a Star Wars costume, a Viacom-authorized video clip of Stephen Colbert re-enacting a light saber fight from the Star Wars movies, or one of thousands of other videos that could conceivably be labeled with a "star wars" tag.

I certify under penalty of perjury of the law the United States that the foregoing is true and correct. Executed this 19 day of April, 2010 in Boston, Massachusetts.

Brent Hurley

Brent Hurley